

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:10-MJ-1722-WW-1

UNITED STATES OF AMERICA,

v.

DANIEL A. TRIANA,

Defendant.

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ORDER

At the session of this court held on 10 June 2015 in Fayetteville, North Carolina, the government requested issuance of a bench warrant for defendant's arrest based on his failure to appear for plea and sentence at the 8 December 2010 session of court in Fayetteville. His plea and sentence were scheduled for that session pursuant to the second motion for continuance by his retained counsel. The docket sheet reveals no action taken by the government in this case since the 8 December 2010 session other than the filing of a notice of substitution of its counsel on 27 July 2011 (*see* D.E. 9). Thus, the government has delayed over four years in taking any action of record in response to defendant's failure to appear.

For the foregoing reasons, it is ORDERED as follows:

1. The government's request for a bench warrant is DENIED.
2. The government shall file by 1 July 2015 a memorandum showing cause why this case should not be dismissed for failure to prosecute. *See, e.g., United States v. Thomas*, 55 F.3d 144, 148 (4th Cir. 1995).
3. Defendant may file a response to the government's memorandum within 14 days after service of the memorandum on him.

SO ORDERED, this 16th day of June 2015.

A handwritten signature in black ink, appearing to read 'James E. Gates', written over a horizontal line.

James E. Gates
United States Magistrate Judge